

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 543D.5, the Real Estate Appraiser Examining Board hereby gives Notice of Intended Action to amend Chapter 1, “Organization and Administration,” Iowa Administrative Code.

The proposed amendments in Items 1 to 5 update the Board’s address, hours, and Board committees and remove duplicated information that is found in the rules of the Professional Licensing and Regulation Bureau[193].

The proposed new rules in Item 6 provide specific dates and deadlines for individuals who want to become certified appraisers prior to January 1, 2015, in accordance with the federal criteria. The changes in federal criteria have been posted on the Board’s Web site after they were received from the federal regulatory agencies. Because the Board is charged with adopting rules to establish uniform appraisal standards and appraiser certification requirements and other rules necessary to administer and enforce this chapter and the Board’s responsibilities under Iowa Code chapter 272C, these rules are proposed to provide clarity and a time line to avoid any miscommunication with any individual. An individual who fails to meet these time lines will be required to meet the 2015 criteria as outlined and required by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation.

Proposed new rule 193F—1.18(543D) clearly informs individuals that the Board is required to maintain compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

Proposed new rule 193F—1.19(543D) provides that any individual who wishes to apply for registration as an associate appraiser or certification as a certified appraiser will be required to meet the new criteria effective January 1, 2015.

Proposed new rule 193F—1.20(543D) provides guidance to avoid any miscommunication with any person and deadlines for credential upgrading.

Proposed new rule 193F—1.21(543D) outlines the national criminal history check. The Board has statutory authority pursuant to Iowa Code section 543D.22 to perform national criminal history checks only if needed to comply with federal guidelines. The Board was recently informed that the AQB is considering changing the implementation date for the national criminal history checks. If the implementation date does change to 2017, as proposed, the Board will amend the rules when they are adopted and filed to maintain minimal compliance with the federal requirements.

Proposed new rule 193F—1.22(543D) sets forth the Board’s process for determining an individual’s eligibility as an associate or certified appraiser.

These rules may also need to be amended if the implementation date for national criminal history checks is extended.

Consideration will be given to all written suggestions or comments on the amendments received no later than 4:30 p.m. on April 23, 2014. Comments should be addressed to Toni Bright, Real Estate Appraiser Examining Board, 200 E. Grand, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to RealEstateAppraiserBoard@iowa.gov.

A public hearing will be held on April 23, 2014, at 9 a.m. in the Board Office, 200 E. Grand, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person’s name and address for the record and to confine remarks to the subject of the proposed amendments.

These amendments have no fiscal impact to the state of Iowa.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

After analysis and review of this rule making, no job impact exists.

These amendments are intended to implement Iowa Code chapter 543D.

The following amendments are proposed.

ITEM 1. Amend subrule 1.1(2) as follows:

1.1(2) All official communications, including submissions and requests, should be addressed to the board at its official address, ~~1920 SE Hulsizer Road, Ankeny, Iowa 50021~~ 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309.

ITEM 2. Amend subrule 1.2(1) as follows:

1.2(1) The board may appoint administrative committees of ~~not less than three nor more than five board members~~ for the purpose of making recommendations on matters specified by the board.

ITEM 3. Amend rule 193F—1.3(543D) as follows:

193F—1.3(543D) Annual meeting. The annual meeting of the board shall be the first meeting scheduled after April 30. At this time, the chairperson and vice chairperson shall be elected to serve until their successors are elected. ~~The election of these officers shall be the first order of business after hearing the reports of outgoing officers. The newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which they were elected.~~

ITEM 4. Amend rule 193F—1.4(543D) as follows:

193F—1.4(543D) Other meetings. In addition to the annual meeting, and in addition to other meetings, the time and place of which may be fixed by resolution of the board, any meeting may be called by the chairperson of the board or by joint call of a majority of its members. ~~One week's notice shall be given for such meetings, and the notice must designate the time and place of the meeting.~~

ITEM 5. Amend subrule 1.6(1) as follows:

1.6(1) Any person may examine public records promulgated or maintained by the board at its office during regular business hours as provided in 193—Chapter 13. ~~The board maintains an office at 1920 SE Hulsizer Road, Ankeny, Iowa 50021. The office is open during regular business hours from 8 a.m. until 4:30 p.m. Monday through Friday. The office is closed Saturdays, Sundays, and official state holidays.~~

ITEM 6. Adopt the following new rules 193F—1.18(543D) to 193F—1.22(543D):

193F—1.18(543D) Qualified state appraiser certifying agency.

1.18(1) The real estate appraiser examining board is a state appraiser certifying agency in compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). As a result, persons who are issued certificates by the board to practice as certified real estate appraisers are authorized under federal law to perform appraisal services for federally related transactions and are identified as such in the National Registry maintained by the Appraisal Subcommittee (ASC).

1.18(2) The board must adhere to the criteria established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation when registering associate appraisers or certifying certified appraisers under Iowa Code chapter 543D.

193F—1.19(543D) January 1, 2015, criteria.

1.19(1) Effective on and after January 1, 2015, the AQB has changed the criteria for eligibility for registration as an associate appraiser and certification as a certified appraiser. No person may be registered as an associate appraiser or certified as a certified appraiser on or after January 1, 2015, unless the person is eligible under the revised criteria.

1.19(2) The January 1, 2015, criteria were adopted by the AQB in 2011 and have been widely disseminated, including on the board's Web site at: <http://www.state.ia.us/>

government.com/prof/appraiser/home.html. Among other changes, the January 1, 2015, criteria require a national criminal history background check for all associate or certified appraisers.

a. For associate appraisers, the revised criteria place a five-year restriction on the time period in which qualifying education must be completed prior to the submission of an application for associate appraiser registration and require completion of supervisory appraiser/associate coursework by both the supervisory appraiser and the associate appraiser applicant.

b. For certified appraisers, the revised criteria modify the conditions under which applicants for certification are eligible to take the required examinations and require a bachelor's degree for all certified appraisers, including residential appraisers.

193F—1.20(543D) Application and work product deadlines.

1.20(1) *December 31, 2014, application deadline.* In order to be considered for registration as an associate appraiser or certification as a certified appraiser under the criteria in effect prior to January 1, 2015, an applicant must submit an original, fully completed application to the board office for the board's actual receipt no later than December 31, 2014, at 4:30 p.m.

1.20(2) *Deadline for associate appraiser applicants.* The associate appraiser and supervisory appraiser provisions are more fully set out in 193F—Chapters 4 and 15, respectively. Before submitting an application for registration with the board, a person seeking registration as an associate appraiser must complete 75 hours of appraisal education and secure a qualified supervisory appraiser. An associate appraiser applicant who submits an application to the board office after December 31, 2014, at 4:30 p.m. shall be subject to the January 1, 2015, criteria and will accordingly be subject to the mandatory national criminal history background check, the five-year restriction on qualifying education, and the supervisory appraiser/associate coursework. As provided in 1.21(2) "a," the board will include a fingerprint packet with the application for associate appraiser registration for a person submitting an application after December 31, 2014, at 4:30 p.m.

1.20(3) *Summary of certification requirements before January 1, 2015.* As more fully set out in 193F—Chapters 3, 5, and 6, a person who is in the process of completing the education, experience, and examination required for certification as a certified appraiser may not submit an application for certification to the board until all prerequisites have been satisfactorily completed. The prerequisites include the following: qualifying college and core criteria appraiser education, qualifying examination, 2,500 hours of qualifying experience in a minimum of 24 months for residential appraisers or 3,000 hours of qualifying experience in a minimum of 30 months for general appraisers, and work product review. Work product review requires numerous steps, as provided in 193F—5.6(543D) and 193F—6.6(543D). The work product review process includes the applicant's submission of a work product experience log to the board; the board's selection of three appraisals to review; communication of the selected appraisals to the applicant; the applicant's submission of the three appraisals and associated work files to the board in electronic and paper formats; review of the appraisals and work files by a reviewer retained by the board; the reviewer's submission of review reports to the board; a meeting between the applicant and the board's work product review committee; a formal board vote at a board meeting; and communication of approval, denial, or deferral to the applicant. All of these steps must be completed before an applicant with approved work product can submit an application for certification to the board office.

1.20(4) *October 1, 2014, deadline for submission of appraisals and work files.*

a. As a result of the minimum periods of time needed to accomplish all work product review steps summarized in 1.20(3), an applicant for certification as a certified appraiser must fully submit to the board office the three appraisals and associated work files for work product review, as provided in 193F—5.6(543D) and 193F—6.6(543D), no later than October 1, 2014.

b. To allow sufficient time for board selection of three appraisals from the work product review experience log, board communication of the selected appraisals to the applicant, and applicant submission of the appraisals and work files to the board office by October 1, 2014, applicants for residential certification should submit their work product experience log to the board by September 1, 2014, and applicants for general certification should submit their work product experience log to the board by August 1, 2014.

c. Applicants for certification as residential or general certified appraisers who submit appraisals and work files for work product review on or after October 2, 2014, shall be considered for certification under the January 1, 2015, criteria and will accordingly be subject to the mandatory national criminal history background check. As provided in 1.21(2) “b,” the board will provide the fingerprint packet with the application to take the examination. If an applicant submitting appraisals and work files for work product review on or after October 2, 2014, has previously passed the required examination and the examination results remain valid within the 24-month period of validity, as described in 193F—Chapter 3, the board will separately provide a fingerprint packet that the applicant can return to the board with or prior to the submission of the application for certification.

193F—1.21(543D) National criminal history check.

1.21(1) Effective January 1, 2015, all applicants for any of the classifications listed in 193F—1.17(543D) must satisfactorily complete a national criminal history check as provided in Iowa Code section 543D.22 as a condition of registration as an associate real property appraiser or certification as a residential or general real property appraiser. As provided in the January 1, 2015, criteria, certain criminal convictions shall disqualify an applicant from registration or certification for specified periods of time.

1.21(2) The board will provide a fingerprint packet for applicants to complete as follows:

a. The fingerprint packet shall be part of the application for registration as an associate real property appraiser.

b. The fingerprint packet shall be part of the application to take the examination required for certification for applicants seeking certification as residential or general real property appraisers.

1.21(3) The board shall consider a national criminal history report as current for six months following the date the report is received by the board. The board may extend the period of time in which it will consider a national criminal history report as valid for good cause shown, such as deferral of approval of work product review, but in no event will such report be considered current for longer than one year from the date it is received by the board.

1.21(4) In addition to the national criminal history check, the board will also consider an applicant’s history concerning certain civil judgments, arbitration awards, and actions by state, federal, or foreign financial regulatory or licensing authorities.

193F—1.22(272C,543D) Process for board review of eligibility.

1.22(1) Before applying for registration as an associate appraiser or certification as a certified appraiser, a person with a criminal history or other background matters that may impair registration or certification under the January 1, 2015, criteria may request that the board evaluate the prospective applicant’s criminal history or other background matters by submitting a written request to the board. Upon receiving such a request, the board may request additional supporting materials.

1.22(2) Requests will be processed under the same standards as applications for registration or certification in order to inform the prospective applicant whether any of the disclosed information is or may be a bar to future registration or certification. In responding to a request, the board shall address only the offenses or matters listed in the request. The board’s response will be based upon the laws, rules, and guidelines in effect at the time of the board’s response, including the guidelines and policies promulgated by the AQB or ASC.

1.22(3) If the information supplied is not accurate or is incomplete, or if applicable laws, rules, or guidelines change or are impacted by intervening board orders or case law, the board’s response shall not be binding on a future board.

1.22(4) The board has always considered criminal, regulatory, and disciplinary history when determining eligibility for associate registration or appraiser certification. Under the January 1, 2015, criteria, however, certain matters will disqualify applicants for registration or certification, and other matters may disqualify an applicant depending on factors such as the nature and circumstances of the criminal, regulatory, or disciplinary history, the time elapsed, and evidence of rehabilitation. Commencing January 1, 2015:

- a.* An applicant is not eligible for registration or certification at any time if the applicant has been convicted of a felony involving an act of fraud, dishonesty, breach of trust, or money laundering;
- b.* An applicant is not eligible for registration or certification for at least five years if the applicant has been convicted of a felony not described in 1.22(4) “*a*” or if the applicant’s appraiser registration, license, or certificate has been revoked in any jurisdiction; and
- c.* An applicant may not be eligible for registration or certification based on crimes, civil judgments, arbitration awards, or actions by state, federal, or foreign financial regulatory or licensing authorities, if, in the board’s determination, such matters impair the applicant’s fitness and capacity to perform appraisal services with honesty and integrity in accordance with the standards of conduct described in Iowa Code section 543D.18(1).